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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/341,379	07/09/1999	VALERIO AISA	MERL0060US	5053

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EXAMINER
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BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 02/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T-D-19

# Office Action Summary

Application No.

09/341,379

Applicant(s)

AISA, VALERIO

Examiner

Drew E Becker

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-16 and 18-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16 and 18-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 2-16 and 18-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 32-33 recite "first information", "second information", "first functions that correspond to operations that are selectable using the control panel", and "second functions that correspond to operations that are not selectable using the control panel". It is not clear what constitutes the first and second functions, as well as the first and second information, since the control system can receive the same type of input from an external device as it can from an integrated control panel.
4. Claim 16 recites "utility functions". It is not clear what constitute "utility functions" or how these differ from the "first functions and second functions" of claim 32.
5. Claims 9 and 18-19 recite "status information". It is not clear what constitutes "status information" as compared to the "first information" and "second information" of claim 32.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 2-16, 18-23, and 25-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Schwarzbacker et al [Pat. No. 5,710,409].

Schwarzbacker et al teach a cooking appliance and method comprising an appliance control panel (Figure 1, 53), an electronic control unit (column 3, line 27), a selector (Figure 2), an external electronic device (Figure 1, 51), storing and executing first functions with the control panel and second functions with the external device (column 3, lines 24-45), connecting means (Figure 1, 54), transmitting, receiving, and displaying information such as cooking programs, diagnostic checks, and cooking parameters (column 1, lines 40-48), a display and keypad on the external device (Figure 3), setting the time and temperature via the external device (column 4, line 61), linking plural external devices to a personal computer via a modem (column 2, line 65), the external device being a remote control (Figure 1, 51), controlling the use of heating elements (column 3, line 66 to column 4, line 3), a cleaning program (column 3, line 60), and storing, displaying, and adjusting a menu of recipes (column 6, lines 24-35).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarzbacker et al.

Schwarzbacker et al teach the above mentioned concepts. It would have been obvious to one of ordinary skill in the art to monitor the expiration date of stored foods with the invention of Schwarzbacker et al since this operation was normally performed manually, since Schwarzbacker et al teaches monitoring cooking conditions as well as visual and audio alarms (column 4, line 50), and since the automated controls and display of Schwarzbacker et al would eliminate the possibility of human error which would cause food to go bad by being forgotten and not used in time.

#### ***Response to Arguments***

1. Applicant's arguments filed January 28, 2002 have been fully considered but they are not persuasive.

Applicant argues that Schwarzbacker et al do not teach "pre-programmed additional functionality that is accessible through an external control device and not accessible through the use of the control panel". However, applicant's attention is drawn to column 3, lines 24-50 of Schwarzbacker et al which teach an "external programming unit" (Figure 1, 51) as well as an "imbedded control" (Figure 1, 52) wherein the "external programming unit" compiles and stores complex recipes which are then transmitted to the "imbedded control", as well as the ability to "block" the "imbedded control" after

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cooking has started and the capability of controlling multiple cooking devices simultaneously (column 5, lines 1-41).

Regarding applicants arguments to the 112(2) rejections, it still is not clear what information would constitute "first", "second", or "status" information since these terms all appear to possess overlapping functions as they are understood in the art. For instance, the temperature of the cooking device could be considered "status" information, yet this temperature can also be stored in order to compare it to a preset temperature value in which case it could also be considered "second" information. In addition, the temperature value could be controlled by the control unit, as was commonly done, and thus be considered "first" information.

### ***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker  
February 11, 2002

  
**KEITH HENDRICKS**  
**PRIMARY EXAMINER**